

## CITY OF PRINCETON, TEXAS

### ORDINANCE NO. 2017-05-08-01

AN ORDINANCE OF THE CITY OF PRINCETON, TEXAS, AMENDING THE PRINCETON MUNICIPAL CODE BY AMENDING CHAPTER 66, ENVIRONMENT, BY ADDING A NEW ARTICLE V, ILLICIT DISCHARGES; PROVIDING FOR A PENALTY FOR ANY VIOLATION OF THIS ORDINANCE NOT TO EXCEED \$2,000; PROVIDING FOR SAVINGS, SEVERABILITY, AND REPEALING CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRINCETON, TEXAS THAT Chapter 26, is hereby amended by the addition of new text and modification of existing text as follows:

**New Text is Underlined**

**Deleted Text is ~~Struck-out~~**

#### **Article V. - Illicit Discharges**

##### **Section 26-100. Intent and Purpose**

This Ordinance establishes methods for controlling the introduction of pollutants into the small municipal separate storm sewer system (MS4) of the City in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this ordinance are:

- To regulate pollutants from stormwater discharges into and from the MS4;
- To prohibit illicit connections and discharges to the MS4;
- To control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the small MS4;
- To enforce compliance with the permittee's ordinances, permits, contracts, or orders;
- To require installation, implementation, and maintenance of control measures;
- To receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
- To establish legal authority to implement inspection and enforcement procedures to ensure compliance with this Ordinance;
- To respond to non-compliance with Best Management Practices (BMPs) required by the MS4 consistent with its ordinances or other regulatory mechanism(s);
- To assess penalties, including monetary, civil, or criminal penalties; and
- To enter into interagency or Interlocal agreements or other maintenance agreements, as necessary.

##### **Section 26-101. Definitions**

**Applicant** - Property owner or agent of a property owner who filed an application for a stormwater authorization under a TPDES general permit or an individual TPDES permit.

**Authorized Enforcement Agency** - Employees or designees of the City Manager of the City or the Texas Commission on Environmental Quality (TCEQ) have authority to enforce this Ordinance and/or the TPDES regulations.

**Best Management Practices (BMPs)** - Schedule of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment practices, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw materials storage areas.

**Building** - Any structure, either temporary or permanent, with walls and a roof, designed to shelter a person, animal, or property, and occupying more than 100 square feet of area.

**Construction Activity** – Includes soil disturbance, including clearing, grading, and excavating; and does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities).

**Small Construction Activity** is construction activity that results in land disturbances equal to or greater than one acre and less than five acres of land. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres of land.

**Large Construction Activity** is construction activity that results in land disturbance of equal to or greater than five acres of land. Large construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five acres of land.

**Control Measure** – Any BMP or other method used to prevent or reduce the discharge of pollutants to water in the state.

**Conveyance** - Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

**City** – City of Princeton

**Discharge** – When used without a qualifier, refers to the discharge of stormwater runoff or certain non-stormwater discharges as allowed under the authorization of the TPDES stormwater general permit.

**Hazardous Materials** - Any item or agent (biological, chemical, physical) that has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

**Illicit Connection** - Any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

**Illicit Discharge** - Any discharge to a MS4 that is not entirely composed of stormwater, except discharges pursuant to a TPDES stormwater general permit or a separate authorization and discharges resulting from emergency firefighting activities.

**Land Disturbance Activity** - Any activity which changes the volume or discharge rate of stormwater runoff from the land surface. This includes grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

**Maintenance Agreement** - A formal contract between a local government and a property owner to guarantee long-term maintenance of stormwater management practices.

**Non-Stormwater Discharge** - Any discharge to the storm drain system that is not composed entirely of stormwater.

**Person** - Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

**Pollutant** - In accordance with the Texas Water Code, §26.001(13) a pollutant includes the following: dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state.

**Premises** - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Stormwater and Stormwater Runoff** - Rainfall runoff, snow-melt runoff, and surface runoff and drainage.

**Stormwater Management** - The use of structural or non-structural control practices/BMPs designed to reduce stormwater pollutant runoff, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality.

**Stormwater Pollution Prevention Plan (SWP3)** - A document that describes the BMPs and activities to be implemented by the permit holder to identify sources of pollution or contamination at a site and actions to eliminate or reduce pollutant discharges.

**Stormwater Control Practices** - Structural or nonstructural measures to minimize stormwater runoff to surface water in the state.

**Surface Water in the State** - Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

**Texas Pollutant Discharge Elimination System Stormwater (TPDES) Discharge Permit** - A permit issued by the TCEQ, under the authority of Texas Water Code Sections 26.027 or 26.040 that authorizes the discharge of pollutants into or adjacent water in the state. The TPDES program is administered under the authority delegated pursuant to 33 U.S.C. Section 1342(b).

**Unauthorized Discharge** - Any direct or indirect non-stormwater discharge to the storm drain system except as exempted in Section V Prohibition of Illicit Connections of this Ordinance.

## **Section 26-102. Applicability**

Unless exempted, this Ordinance applies to discharges entering the storm drain system within the jurisdictional limits of the authorized enforcement agency.

## **Section 26-103. Responsibility for Administration**

The City shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the City Manager of the City may be delegated in writing by the City Manager of the City to persons or entities acting in the beneficial interest of the City.

Authorized individual(s) under this Section shall have the authority to enforce this Ordinance in its entirety and shall be designated as a TPDES Stormwater Manager and/or Inspector. Any person subject to an industrial or construction TPDES stormwater discharge permit or authorization shall comply with all provisions of the permit and may be required by the City to have authorization to discharge stormwater into the MS4.

## **Section 26-104. Prohibition of Illicit Connections and Discharges**

The City has the authority to prohibit illicit discharges and illicit connections in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)a. This Ordinance prohibits unauthorized discharges into the storm drain system. No person shall release discharges into the municipal storm drain containing any pollutants that cause or contribute to a violation of water quality standards, other than stormwater or authorized non-stormwater discharges. Discharges from illicit connections are unauthorized, even if the connection was allowable under previous rules and regulations.

## **Section 26-105. Response to Releases**

The City has the authority to respond to and contain other releases. The local jurisdiction must control the discharge of a spill and prohibit dumping or disposal of material other than stormwater and authorized non-stormwater discharges into the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)b. Any person in violation of this Ordinance may risk having their discharge authorization to the MS4 terminated. The authorized enforcement agency will notify the violator of the proposed termination of its authorization. The violator may petition the City to reconsider and schedule a hearing.

When the person responsible has knowledge of any known or suspected release of materials resulting in or potentially resulting in unauthorized discharges into a storm sewer system or surface water in the state, the person must contain and clean up the release. If hazardous materials are released, the person must immediately notify emergency response agencies. If non-hazardous materials are released, the person must notify the authorized enforcement agency no later than the next business day. Notifications in person, telephone, email, or text must be confirmed by written notice addressed and mailed to the City.

During emergency situations involving unauthorized discharges from illicit connections, the local jurisdiction may suspend a person's MS4 authorization to stop an actual or threatened discharge which may present danger to the MS4 or surface water in the state. If the violator fails to comply, the authorized enforcement agency may take necessary steps to prevent or minimize damage to the MS4 or surface water in the state.

## **Section 26-106. Permit Procedures and Requirements**

The City can enforce compliance with the permittee's ordinances, permits, contracts, or orders in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)c.

### **Application Review Fees**

The land development application fee shall be based on the amount of land to be disturbed, and the fee structure shall be established by the City.

### **Application Procedure**

- Applications for land disturbance activity permits must be filed with the City on any regular business day.
- Permit applications shall include the following: two copies of the stormwater management plan, two copies of the maintenance agreement, and any required review fees.
- Within 15 business days of receipt of a complete permit application, the City shall inform the applicant whether the application, stormwater management plan, and maintenance agreement are approved or disapproved.

## **Section 26-107. Maintenance and Repair of Stormwater Facilities**

The City has the authority to require installation, implementation, and maintenance of control measures in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)d.

## **Section 26-108. Requirements for Stormwater Management Plan Approval**

The City has the authority to receive and collect information (i.e. stormwater pollution prevention plans, inspection reports, etc.) from any person (i.e. operators of regulated construction sites, new or redeveloped land, and industrial and commercial facilities) in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2).e to assess compliance with this permit.

A stormwater management plan is required with all permit applications that includes detailed information (e.g. maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, potential impacts of proposed developments (both present and future), and the effectiveness of proposed stormwater management measures to regulate stormwater runoff. The stormwater management plan indicates the type of stormwater management measures necessary to control stormwater runoff from the current project and future development.

The following details should be included in the plan:

- Contact Information: The name, address, and telephone number of all persons with a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- Map(s) identifying the location of existing and proposed buildings, roads, parking areas, utilities, and structural stormwater management and sediment control facilities. The map(s) must show proposed land use and percentage of surface area to be adapted to various uses. The maps must identify drainage patterns, locations of utilities, roads and easements, the limits of clearing and grading, and a written description of the site plan.

- Sufficient engineering analysis to demonstrate the proposed stormwater management measures will control runoff from the site.
- An inventory of the natural resources at the site and surrounding area prior to proposed activities and a description of the watershed and its relation to the project site. The description should include the soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Attention should be paid to environmentally sensitive features that provide opportunities or constraints for development.
- A written description of the maintenance requirements for any proposed stormwater management facility.
- An erosion and sediment control plan should be included for all construction activities involving on-site stormwater management practices. An erosion and sediment control plan is a set of plans that indicate the specific measures for the erosion and sediment control on a development site during and after construction.

For any activity on a previously developed site, the applicant must indicate within the stormwater management plan the best management practices it will utilize to control stormwater runoff from the site in accordance with the standards of this Ordinance. If modifications to the stormwater management plan are necessary by the City, a final stormwater management plan must be submitted for review and approval by the TCEQ.

### **Section 26-109. Authority to Enter and Inspect**

The City has the authority to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3. (a)(2) f.

- The City may enter and inspect facilities, equipment, practices and operations subject to regulation under this Ordinance as often as necessary to determine compliance with this Ordinance. If a discharger's security measures require proper identification and clearance before entry into the premises, the discharger shall make necessary arrangements to allow access to representatives of the authorized enforcement agency.
- Facility operators shall allow the City access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.
- The City shall have the right to monitor and/or sample the facility's stormwater discharge.
- The City may require the discharger to install and maintain necessary sampling and monitoring equipment.
- The operator must remove temporary or permanent obstruction(s) at the written or oral request of the City to allow safe and easy access to the facility for inspection and/or sampling purposes. The costs of clearing access will be borne by the operator and the obstructions may not be replaced.
- Unreasonable delays in allowing the City access to a permitted facility is a violation of a TPDES stormwater discharge permit and of this Ordinance. A person commits an offense if the authorized enforcement agency is denied reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

## **Section 26-110. Best Management Practices (BMPs) to Reduce Stormwater Pollutants**

The City has the authority to respond to non-compliance with BMPs required by the MS4 in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)g. The City shall adopt measures to identify BMPs for any activity, operation, or facility which may facilitate pollution of stormwater, the storm drain system, or surface water in the state. The owner or operator of a commercial or industrial establishment shall implement, at their own expense, appropriate pollution control measures through the use of structural and non-structural BMPs to prevent and reduce discharge of pollutants into the municipal storm drain system or watercourses. The BMPs must be identified in the SWP3 to satisfy requirements of the TPDES permit.

## **Section 26-111. Enforcement**

The City has the authority to assess penalties, including monetary, civil, or criminal penalties in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)h.

If the City finds a person in violation with this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require:

- Monitoring, analysis, and reporting
- Elimination of illicit connections or discharges
- Termination of existing discharges or practices and/or operations in violation of this Ordinance
- Abatement and/or remediation of stormwater pollution or contamination hazards
- Payment of fines to cover administrative and remediation costs
- Implementation of pollution control measures or treatment BMPs

If the property must be remediated, the notice must establish a deadline to restore the site. The notice must further advise that, if the violator fails to remediate the site by the deadline, a designated governmental agency or contractor will restore the site at the expense of the violator.

## **Section 26-112. Penalty Upon Failure to Comply**

1. Any person violating or failing to comply with any provision or requirement of this article, who continues to violate or fail to comply with same within seven days after notice is given and received as set forth in section 26-111, shall also be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$2,000.00, such offense being a violation of the health and safety ordinances of the city. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur. This section shall be in addition to and cumulative of the provisions for abatement of the nuisance by the city and charging the cost of same against the owner of the property.
2. Notwithstanding the foregoing, any violation of any provision of this article that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.
3. In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this article pursuant to the applicable provisions of V.T.C.A., Local Government Code § 54.001, which provides for the enforcement of municipal ordinances.
4. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this chapter.

**Section 26-113. Maintenance Agreements**

The City has the authority to enter into interagency or Interlocal agreements or other maintenance agreements, as necessary in accordance with TPDES Phase II MS4 Permit TXR040000 Part III Section A.3.(a)(2)i. This agreement will include maintenance easements to access and inspect stormwater control practices, and perform routine maintenance to ensure proper stormwater control. A legally binding covenant will identify the responsible parties to maintain stormwater control practices.

**Section 26-114. Ultimate Responsibility**

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore, this Ordinance does not intend nor imply that compliance by any person will ensure prevention of contamination, pollution, and unauthorized discharge of pollutants.

**Section 26-115. Separability**

The provisions and sections of this Ordinance shall be deemed to be independent, and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

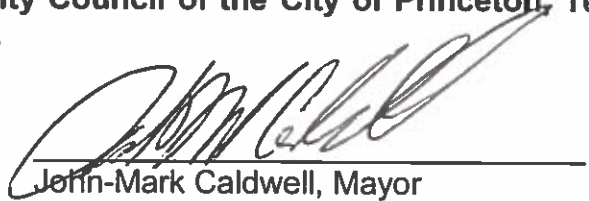
**Section 26-116 Savings, Severability and Repealing Clauses.**

All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict. If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof. The City declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that anyone or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

**Section 26-117 Publication of the Caption Hereof and Effective Date.**

This ordinance shall be in full force and effective from and after its passage and upon the posting and/or publication, if required by law, of its caption and the City Secretary is hereby directed to implement such posting and/or publication.

Passed, Approved and Adopted by the City Council of the City of Princeton, Texas this the 8 Day of May, 2017.

  
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John-Mark Caldwell, Mayor  
City of Princeton, Texas

ATTEST:  
  
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Lesia Gronemeier, City Secretary

